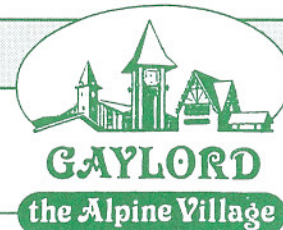


# CITY OF GAYLORD

225 W. Main Street ♦ Room 109  
Gaylord, Michigan 49735-1393  
989-732-4060 ♦ Fax: 989-732-8266



April 9, 2007

The Honorable Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E. Street, SW  
Washington, DC 20024

**RE: Protest of Abandonment**  
**STB Docket No. AB-534 (Sub-No. 3X)**  
**Lake State Railway Company – Rail Line in Otsego County, Michigan**

Dear Secretary Williams:

Enclosed is the City of Gaylord's official Protest of Abandonment regarding this matter before the board. The City has also filed this protest electronically. We felt it important to provide original hard copy materials as well.

We thank you for your consideration and attention.

Very truly yours,

Joseph P. Duff  
City Manager

Enclosures  
CC: Mayor, Council Members



Located In The Center Of Northern Lower Michigan

Protest of Abandonment

Docket No. AB-534 (Sub No. 3X)

Lake State & Saginaw Bay Southern Railway

**(a)(1)(i). Protestant.**

City of Gaylord

225 W. Main Street, Room #109

Gaylord, MI 49735

Joseph P. Duff, City Manager

989-732-4060

989-732-8266 (Fax)

**(a)(1)(ii). Description of Protestant's interest in the proceeding.**

The City's interests in this proceeding are primarily concerning the effects such a closure or abandonment will have on our businesses that receive service by this rail line. This line's abandonment will have a serious effect on the continued viability of one of the City's long-term companies. It also has serious implications in so far as continued economic viability to other businesses located just outside of our corporation limits. Furthermore, such an abandonment eliminates what we consider a wonderful economic tool to attract new companies and opportunities to our community.

**(a)(1)(ii)(B). Information concerning the group or public interest it represents.**

The City of Gaylord is a municipality in the State of Michigan. One of our missions is to assist both businesses and residents in providing for a vibrant, active community where people can both live and work.

**(a)(1)(iii). Specific reasons why protestant opposes the application.**

1. Specific claims found in Lake State "Verified Petition for Exemption, dated March 28, 2007."

- a. Page 10 indicates as follows:

*" . . . it nevertheless would be possible for Northern Energy to utilize the new Gaylord spur to establish a transloading operation for final delivery of its products. "*

Lake State claims that there are other options available to transload Northern Energy's product. Yet Lake State has not indicated locations which they own to accommodate this business. They have not responded to requests for assistance to so construct such access roads or points for off loading. They indicate locations are available, but on private properties.

- b. Page 12 indicates as follows:

*" . . . passenger transport ceased in 1950's. – paragraph P"*

Yet, just last fall our City saw a passenger service train operated by Luxury Railcar Sales that visited the area. This company has indicated another tourist excursion is planned on this line for June 9, 2007. They are currently working

with the Gaylord/Otsego Chamber of Commerce and Tourism Bureau on this event.

c. Page 17 indicates as follows:

*“ . . . the proposed abandonment of the line does not threaten shippers with reductions in available, competitive alternatives, or otherwise expose them to market power abuse.”*

Page 18 indicates as follows:

*“ . . . no substantial anticompetitive or adverse effects on shippers will result from the abandonment of the line.”*

The City objects to these claims. We feel that this line's abandonment will have a tremendous adverse effect on Northern Energy in particular. Northern Energy depends on this line. They have made recent investments based on the continuation of shipments over this line. Without rail service, they will see a dramatic increase in costs as detailed below. These claims made by Lake State are simply inaccurate.

2. Lake State & Saginaw Bay Southern Railway began this process by informing one of our affected businesses, Northern Energy, Inc., that the reason for abandonment was because the City of Gaylord and the Otsego County Road Commission wanted the tracks removed from the area. This claim by the railway is false and has no basis of fact. If anything, just the opposite is true. The City has always supported the railroad and worked with them on the rebuilding of several crossings throughout the City at no costs to the railroad. Rebuilt crossings paid for 100% by the City in the past years include Fourth Street, Petoskey Street, Second Street, North Street, and Mitchell Street. The City has also worked with and



supported the rebuild of the M-32 crossing in 2000 and supports the Grandview Boulevard crossing planned for 2008. Therefore, each of the crossings within the City, if the Grandview reconstruction proceeds, has been rebuilt over the last thirteen years.

The applicant further claims that the 4.15 mile abandonment does not generate adequate revenue to cover operating costs nor does it have the necessary facilities or undeveloped land to make it a viable operation. Such a comment by the railroad, we feel, is completely false. Current railway cars per year on this line are 142. This line has not only seen rail traffic increase, it has seen an over 100% increase in the past eight years.

The City also feels that there are significant opportunities for more traffic to develop on this line. Otsego County currently owns a 17.1 acre parcel that is the former Michigan Department of Natural Resources Repair Facility which is immediately adjacent to the railroad. A total of 14.9 acres is located west of the railroad bordering Illinois Avenue. A 2.2 acre parcel located off South Otsego Avenue (Old 27) also borders this railroad line. Otsego County currently has no plans for this property and the right type of development could well take advantage of the rail line. There are also several commercially owned undeveloped tracks of land along this railway line that are either vacant or could be reassembled with existing other underutilized commercial properties. Both are within and adjacent to the City.

3. The City of Gaylord also feels a protest is in order to insure the continued economic viability of our community. In March of 2006 the County of Otsego lost its third largest employer with the closure of the Georgia Pacific Plant. A total of 248 jobs were immediately lost. Another 150 provider and supplier jobs were also impacted due to this major manufacturer closing its doors. Carter's Food Stores, a long time grocery store in our City, also closed its doors on December 30, 2006 resulting in 26 fulltime jobs lost. We are now in a situation

where every job is important. This community now has 424 less jobs on January 1, 2007 than we had on January 1, 2006.

In Lake State's "Verified Petition for Exemption, dated March 28, 2007" they claim that they lost a substantial customer with the closure of Georgia Pacific. Georgia Pacific, though not on the line which is being proposed to be abandoned, provided traffic which Lake State felt was extremely significant at 507 cars in 2005. They also go on to indicate in their submittal that the new railroad 2.5 mile spur through the Georgia Pacific property to service a scrap facility, A&L Iron, will open up new potential development. What Lake State fails to mention is that A&L Metal has committed to 20 carloads of shipment of new origination per month. This new customer recovers the Georgia Pacific loss of revenue by nearly 50%. It also is a known fact that a number of companies are still very interested in the Georgia Pacific facilities. All of the companies currently in discussion with Georgia Pacific see the rail spur as an integral part of their future plans. Therefore, we are of the opinion that the losses Lake State claim due to the closure of Georgia Pacific will soon be recovered.

Northern Energy, Inc. currently averages nearly 50 railroad cars per year on this line. They are currently on pace to receive over 63 cars for 2007. They employ a total of 35 employees who make a good living. The company provides a benefit package as well to its employees. The effect of a transportation closure of this nature is severe to this company. Northern Energy currently receives 90% of its lubricants via rail. The effect of a closure of this line and change to transportation via truck is estimated to impact a price increase of 36¢ to 40¢ per gallon on the oil and lubricant to their commercial and industrial users all over the State of Michigan. With over one million gallons of product distributed annually by Northern Energy, this equates to a \$360,000 to \$400,000 increase in shipping costs annually to this company. It is not known at this time how such changes will affect this business and their

customers throughout Michigan. It very well could negatively impact this business and its employee base significantly.

Perhaps the most troublesome irony about the Northern Energy, Inc. story is the fact that in the Spring of 2006 they completed construction on a 6,000 square foot warehouse to increase operations at their Gaylord location. They built this facility only after conference with then customer services representatives at Lake State & Saginaw Bay Southern Railway. Before making such an investment, they wanted to insure that their critical supply of product continued. Northern Energy stated to us that over the years they consistently conferred with the railroad on all their shipping, storage, and off loading related improvements that provided greater ease for both companies.

There truly seems to be some confusion by Lake State as to why they would just less than one year ago encourage Northern Energy to improve their facilities to handle more product and now inform them that the line is being requested for abandonment. The investments by Northern Energy were substantial and a share of that responsibility should be borne by Lake State since they were made aware and conferred with Northern Energy about their intentions to make such a significant investment.

**(a)(2)(iii). Impact on rural and community development.**

Below is a detail of the four customers currently serviced by the railroad on this 4.19 mile planned closure.

Superior Well Service	9 cars per year	Livingston Township
Haliburton	87 cars per year	Livingston Township
Magnum Solvents	7 cars per year	City of Gaylord – South Second Street
Northern Energy, Inc.	41 cars per year	City of Gaylord – South Second Street



1. Loss of Jobs. It is very likely that our community will see job losses due to this decision by the railroad. Superior Well's and Haliburton's futures in our community are in jeopardy as is that of Magnum Solvents. If product cannot be unloaded at their sites, these companies will find other options for supply. These other supply options will be outside our community, which will result in local job losses.

A 36¢ to 40¢ per gallon increase on product costs for Northern Energy, Inc. could make this company begin to downsize its business. Up to this point in time company officials have felt that their business would continue to grow.

2. Loss of Railroad Service and Future Development. The loss of railroad service to our community would most definitely impact our local economy. The future of our community to see industrial or commercial businesses locate in our community, particularly if they rely on heavy shipping of products, will be much diminished.

Both the Chamber of Commerce and the Gaylord Otsego Tourist & Convention Bureau have even held recent discussions about the possibilities of tourist-based passenger service being reestablished. The plan was to bring tourists up to Gaylord from the Grayling area to experience shopping and dining opportunities in our downtown. This opportunity will now be removed.

3. Establishment of Costs to Service. Northern Energy, Inc. estimates that if rail shipping is removed that the City can expect to see nearly 300 more trucks a year coming into this facility just adjacent to our downtown. This additional truck traffic will consist of large trucks filled with petroleum-based lubricants, fuel, and chemicals. This traffic will most certainly adversely affect both our state highways and our local roads, which will result in increased maintenance and repairs. As our community continues to suffer through Michigan's economic downturn we honestly feel good things are happening in our

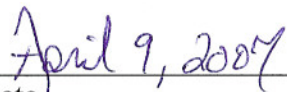


community. We see an expanding business environment for all four (4) companies that this rail abandonment will affect. We feel Lake State should continue to see business grow which we are confident that it will and think this request is simply premature and should be denied.

I, Joseph P. Duff, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this pleading. Executed on April 9, 2007.

  
\_\_\_\_\_  
Joseph P. Duff, City Manager

  
\_\_\_\_\_  
Date

Attachments:

1. Resolution supporting continuation of railroad in the City of Gaylord adopted by the City Council on December 12, 2006.
2. Letter from Northern Energy, Inc. attesting to statements made in this Protest of Abandonment Statement.

**Northern Energy Inc.  
Bronco Oil Company Inc.**

P. O. Box 1237  
231 South Indiana St.  
Gaylord, MI 49734  
Phone: 989.732.5495  
Fax: 989.732.6140  
Cell: 989.350.3211  
fuelmule@aol.com

April 9, 2007

Surface Transportation Board  
Board's Office of the Secretary  
1925 K Street, NW  
Washington, DC 20423-001

RE: City of Gaylord Protest of Abandonment  
Docket No AB-534 (Sub No. 3X)  
Lake State Saginaw Bay Southern Railway

Dear Sir or Madam:

Northern Energy, Inc. has reviewed the City of Gaylord's Protest of Abandonment and wishes to go on record that the statements made by City Manager Joseph P. Duff as they relate to our company are true and accurate statements of fact.

Sincerely,



David Miller  
President



*Signature  
Class*  
Lubrication Marketer

**Resolution  
Supporting Continuation of  
Railroad Line in the  
City of Gaylord**

**WHEREAS**, the City has been informed that Lake State and Saginaw Bay Southern Railway is contemplating abandoning the railroad north of the I-75 overpass into the City of Gaylord; and

**WHEREAS**, this rail line services Northern Energy, a long term successful business within the City of Gaylord; and

**WHEREAS**, the removal of this line would place a tremendous burden on Northern Energy which currently receives up to 90% of its volume of lubricants via rail to their location at the corner of W. Second Street and S. Indiana Avenue; and

**WHEREAS**, Northern Energy employs thirty-five (35) people who make a good living wage with benefits to citizens in and around our entire community; and

**WHEREAS**, Northern Energy has been a tremendous supporter of the City and local community events; and

**WHEREAS**, the community has seen in the last year plant and business closings at Georgia Pacific that have resulted in 248 jobs lost to our community and Carter's Food Stores with 26 jobs permanently lost.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Gaylord would like to formally go on record opposing the rail line abandonment to Northern Energy unless mutual agreements for resupply of this company can be accommodated by and between Northern Energy and Lake State and Saginaw Bay Southern Railway.

Motion by Johnson, supported by Sharrard;

Ayes: Campbell, Jann, Johnson, Sharrard, Solokis and Wambold.


Nays: None.

Absent: Mankowski.

**RESOLUTION DECLARED ADOPTED.**

I do attest that this resolution was officially adopted by the City Council of the City of Gaylord at a regular meeting held on Monday, December 11, 2006.

December 12, 2006  
Date

  
Rebecca A. Curtis  
City Clerk